

REMARKS

Claims 1-11 and 13-30 are pending in this Application.

Interview Summary

Applicant appreciates the courtesy of Examiner Baisa in granting a telephonic interview with the Applicant's representative, Lisa Kilday, on August 24, 2007. During the interview, the 112, second paragraph rejection of claims 1-30 was discussed. As a preliminary matter, claim 12 was cancelled in the Amendment filed May 23, 2007 in response to the Office Action mailed February 23, 2007.

The Examiner maintained the indefiniteness rejection of the term "closer" found in claims 1 and 22. The Examiner asserted that the term "closer" is ambiguous and broad.

The Applicant's representative stated that the term "closer" is a relative term, which is used to compare the respective thermal expansion coefficients for three layers. As an example, the Applicant's representative referred the Examiner to Table 2 on page 13 of the instant specification, which supports, "...wherein a thermal expansion coefficient of the adjusting layer is closer to a thermal expansion coefficient of the strain-sensitive resistor element than to a thermal expansion coefficient of the glass layer," as recited in claims 1 and 22. It was emphasized that the comparison of respective thermal expansion coefficients was understood by one of ordinary skill in this art.

The Examiner, however, expressed concern that the term "closer" was not precise and suggested that the Applicant should consider amending the claims to recite "greater than," "less than," or "same as."

The undersigned conducted a telephonic interview with Supervisory Examiner Enad on August 28, 2007. Supervisor Enad agreed to withdraw the 112, second paragraph rejection. The undersigned also discussed with Supervisor Enad withdrawing the finality of the Office Action mailed August 9, 2007. The rejection of claims 1-14, 16, 18, 22-26, and 30 under 35 U.S.C. § 102 and claims 15, 17, 19-21, and 27 under 35 U.S.C. § 103 over Ratell was predicated on the Examiner's faulty interpretation of "closer," which has now been withdrawn. Further, the Applicant's representative directed Supervisor Enad to the Examiner's boilerplate 112, 102, and 103 rejections. Particularly in the Office Action mailed August 9, 2007, the Examiner has merely repeated the previous 112, 102, and 103 rejections in their entirety from the non-final Office Action mailed February 23, 2007. As such, since the Examiner has not addressed the Applicant's traversals, it is respectfully requested that the Examiner issue a new non-final Office Action to address the Amendment filed May 23, 2007.

Claim Rejection Under 35 U.S.C. § 112

Claims 1-30 were rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action stated that the term "closer" recited in claims 1 and 22 is a relative term, which renders the claim indefinite. This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested. As discussed above, this rejection was withdrawn in view of the telephone interviews with Examiner Baisa and Supervisor Enad.

Claim Rejection Under 35 U.S.C. § 102

Claims 1-14, 16, 18, 22-26, and 30 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,867,886 (hereinafter Ratell). The Office Action states, “Ratell et al. shows a glass layer 28, 38 and...an adjusting layer 38 provided on the glass layer 28.” The Office Action asserts that the thermal expansion coefficient of the adjusting layer 38 is **about the same** as the thermal expansion coefficient of **both** the strain-sensitive resistor element 34 and the glass layer 28 in Ratell.

Turning to the prior art, Ratell discusses the thermal expansion coefficient of the glass layer 28 and the diaphragm 26 (col. 6, lines 4-10). However, Ratell does not provide the thermal expansion coefficient of the glass layer 28. Ratell is *silent* regarding the respective thermal expansion coefficients for the glass layer 28 and the adjusting layer 38.

According to the claimed subject matter per claims 1 and 22, the thermal expansion coefficient of the adjusting layer is ***closer*** to the thermal expansion coefficient of the strain-sensitive resistor element than to the thermal expansion coefficient of the glass layer (*see*, Tables 1 and 2, Paras. [0072], [0074], [0103], and [0120]).

Ratell fails to disclose or suggest, at a minimum, “...wherein a thermal expansion coefficient of the adjusting layer is closer to a thermal expansion coefficient of the strain-sensitive resistor element than to a thermal expansion coefficient of the glass layer” as recited in claims 1 and 22.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that “inherency may not be established by probabilities or possibilities,” *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int’l Trade Commission*, 808 F.2d 1471 (Fed. Cir.

1986), based on the forgoing, it is submitted that Ratell does not anticipate claims 1 and 22 nor any claim dependent thereon.

Claim Rejection Under 35 U.S.C. § 103

Claims 15, 17, 19-21, and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ratell. Claims 15, 17, and 19-21 depend from claim 1 and claim 27 depends from claim 22 and include all of the features of that claim plus additional features, which are not taught or suggested by the cited reference. Therefore, for at least these reasons, it is respectfully submitted that claims 15, 17, 19-21, and 27 also patentably distinguish over the cited reference.

Allowable Subject Matter

Claims 28 and 29 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

In view of the above remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Response or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

10/529,704

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Michael E. Fogarty
Registration No. 36,139

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF:LAK
Facsimile: 202.756.8087
Date: November 6, 2007

**Please recognize our Customer No. 53080
as our correspondence address.**